

### **REMARKS**

The Office Action dated July 16, 2002 has been carefully considered. Claims 12, 17, 32, 33, 36 and 37 have been amended. Claims 42 and 43 have been cancelled. Claims 12-15, 17-20 and 32-40 are in this application.

The previously-presented claims were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 3,799,146 to John et al. Applicant submits that this reference does not teach or suggest the invention defined by the present claims.

John et al. disclose a hearing testing and audiometer. Tones are played to the subject. The tones can be controlled. The loudness level of the tones can be increased. Electrodes detect the subjects' brainwaves which are evoked responses to the tones. The brainwaves are analyzed to display a profile of the subjects' hearing ability.

In contrast to the invention defined by the present claims, John et al. do not teach or suggest a method for adjusting cognitive function in a postnatal human or improving cognitive function in a premature baby. Rather, John et al. teach an instrument for testing hearing of a subject. There is no teaching or suggestion in John et al. of determining a pattern of sonic variations in alpha rhythm comprising a plurality of tones repeated at a predetermined tempo in order to adjust cognitive function of an individual, as defined by the present claims. Instead, John et al. teach adjusting loudness levels and selected frequencies in a feedback device in order to test hearing ability. In contrast, the system of the present invention auditorily drives the brain's alpha rhythm alone with a constant volume with no other frequencies. Moreover, there is no teaching or suggestion in John et al. that the tones can be transmitted to a postnatal human or premature baby for adjusting cognitive function. Accordingly, the invention defined by the present claims is not anticipated by John et al.

In view of the foregoing, Applicant submits that all pending claims are in condition for allowance and requests that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this

application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,



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## MARKED-UP COPY OF AMENDED CLAIMS

12. (Amended) A method for adjusting cognitive function of a postnatal human comprising the steps of:

determining a pattern of sonic variations in alpha rhythm, said pattern comprising a plurality of sequences of tones each sequence being repeated at a predetermined tempo; and

transmitting each of said sequences of tones in a soundwave form to said human during a predetermined period,

wherein a tempo at which each subsequent said sequence of tones is repeated is selected to be increased or decreased during the predetermined period thereby adjusting cognitive function of the postnatal human.

17. (Amended) A method for improving the cognitive function of a premature baby comprising the steps of:

determining a pattern of sonic variations, said pattern comprising a plurality of sequences of tones, each sequence being repeated at a predetermined tempo; and

transmitting each of said sequences of tones in soundwave form to said premature baby during a predetermined period,

wherein a tempo at which each subsequent said sequence of tones is repeated is selected to be increased during the predetermined period thereby improving the cognitive function of the premature baby.

32. (Amended) A system for adjusting cognitive function of a postnatal human comprising:

means for determining a pattern of sonic variations, said pattern comprising a plurality of sequences of tones, each sequence being repeated at a predetermined tempo;

means for selecting each of said sequences of tones to be transmitted at a predetermined time during a predetermined period; and

means for transmitting each of said sequences of tones in soundwave form to said human during said predetermined period thereby adjusting cognitive function of the postnatal human.

33. (Twice Amended) A system for adjusting cognitive function of a postnatal human comprising:

means for determining a pattern of sonic variations, said pattern comprising a plurality of sequences of tones, each sequence being repeated at a predetermined tempo;

means for selecting each of said sequences of tones to be transmitted at a predetermined time during a predetermined period; and

means for transmitting each of said sequences of tones in soundwave form to said human during said predetermined period,

wherein said tones in said pattern of sonic variations are a baseline tone or a tonal variation from said baseline tone in which subsequent sequences increase or decrease in tempo thereby adjusting cognitive function of the postnatal human.

36. (Twice Amended) A system for adjusting cognitive function of a postnatal human comprising:

means for determining a pattern of sonic variations, said pattern comprising a plurality of sequences of tones, each sequence being repeated at a predetermined tempo;

means for selecting each of said sequences of tones to be transmitted at a predetermined time during a predetermined period;

means for transmitting each of said sequences of tones in soundwave form to said human during said predetermined period; and

means for positioning a transmission means proximate to a forehead of said human and transmitting said sequence of tones aurally thereby adjusting cognitive function of the postnatal human.

37. (Twice Amended) A system for increasing cognitive function of a premature baby comprising:

means for determining a pattern of sonic variations, said pattern comprising a plurality of sequences of tones, each sequence being repeated at a predetermined tempo;

means for selecting each of said sequences of tones to be transmitted at a predetermined time; and

means for transmitting each of said sequences of tones in soundwave form to said premature baby thereby improving the cognitive function of the premature baby.